ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of the Commission's	)	GEN Docket No. 90-314
Rules to Establish New Personal	)	
Communications Services	)	

MCI COMMENTS

MCI Telecommunications Corporation (MCI), by its attorneys, hereby submits its comments on certain petitions for reconsideration or clarification of the Commission's Memorandum Opinion and Order[1/] (Order) in the above-captioned proceeding.

MCI opposes CTIA's request for further relaxation of the attribution rule and the population overlap threshold. CTIA claims that the 10% overlap threshold can be increased to 40% and the 20% attribution threshold can be increased to 30-35% without adversely affecting consumer welfare. Petition, at 4. CTIA is merely rearguing an issue already raised and rejected. The Commission's rules and policies provide ample opportunities for any cellular carriers who desire to acquire additional spectrum to do so.

CTIA's request that the Commission reconsider its prohibition on cellular carriers' holding of more than 35 MHz of spectrum until January 1, 2000 (Petition at 6-7) should be denied. CTIA claims that cellular carriers should be given an immediate opportunity to acquire an additional 15 MHz of spectrum (10 MHz of broadband PCS, plus an additional 5 MHz through frequency partitioning). The Commission's decision to limit cellular carriers to

---

[1/] 9 FCC Rcd ____ (FCC 94-144, released June 13, 1994).

35 MHz of spectrum initially was based, in large measure, on the need to conduct a further rulemaking in which the technical and procedural ramifications of partitioning PCS spectrum will be explored. Until that proceeding is successfully completed, the Commission should not prejudge the outcome of that rulemaking by authorizing any parties (including cellular carriers) to transfer or acquire partitioned spectrum in the secondary market, either immediately after auction or at some specified date after the initiation of PCS service.

CTIA (at 7-8) and Comcast (at 7-9) request that the Commission further liberalize its post-auction divestiture requirements. MCI opposes these requests. Elimination of the 20% overlap upper limit for post-auction divestiture would allow cellular licensees with 40% (CTIA, at 8) or even 75% (Comcast, at 8) geographic overlap to bid on broadband PCS licenses. Competing bidders would have no means of ascertaining whether the cellular incumbent's bid was sincere, or part of an attempt to game the system. Permitting cellular carriers to bid on overlapping PCS markets, without limit, would give them an unreasonable advantage in the auction process. The Commission's 20% overlap limit is not arbitrary as CTIA contends or indefensible as described by Comcast. Rather, the 20% limit represents a reasonable effort to limit bid eligibility to those with a sincere interest in acquiring spectrum for the principal purpose of rendering PCS service. In addition, there is nothing to prevent any cellular carrier which currently exceeds the 20% overlap from irrevocably divesting its cellular properties -- in advance of the application filing date -- to gain eligibility to bid on up to 40 MHz of PCS spectrum.

Comcast's proposals, at 8-9, that the Commission replace the 20% overlap limit with additional fines or specific license forfeiture rules with monetary penalties and that the

divestiture period be extended from 90 days to six months should be rejected. Adoption of Comcast's fines and forfeitures proposal would require, at a minimum, that a further rulemaking be conducted prior to commencement of auctions. If the Commission determined, in the course of that rulemaking that its existing statutory authority to impose monetary forfeitures is inadequate to deter bad-faith bidding -- a distinct possibility, given the high stakes involved -- auctions could be further delayed pending the enactment of any necessary legislation. Extension of the divestiture period should not be necessary, inasmuch as the Commission has authorized the divestiture of the prohibited interest to an independent interim trustee if a buyer has not been secured in the required timeframe.

The request by MSTV and the Joint Parties that the Commission adopt a guard band of adequate width in the upper portion of the 1970-1990 MHz band to protect adjacent broadcast auxiliary microwave facilities should be rejected. Although the Commission has been considering various band plan options for the emerging technologies band (1850-1990 MHz) for nearly four years, the most recent participation by any of the Joint Parties in this docket appears to have occurred in January, 1991 (Petition, at 4 n.5). It would be manifestly unfair to other parties, including MCI, who have actively participated in the PCS rulemaking process over the entire four year cycle, to radically alter the allocation scheme for the sake of creating a healthy guard band (Petition at 7) to protect adjacent channel broadcast auxiliary operations. MSTV and the Joint Parties have not shown that the PCS out-of-band emission limits are inadequate to protect broadcast auxiliary systems operating in the 1990-2110 MHz band, provided that C Block licensees implement frequency coordination and/or the other measures described in the petition and attachments.

Omnipoint's request that the Commission adopt a revised out-of-band emission limit for licensed PCS should not be granted. Omnipoint's proposed rule contains a series of definitions that have the effect of allowing Omnipoint, or another operator using a similar wideband signal, to cause harmful interference to the users of adjacent frequency blocks. The Omnipoint proposal should not be adopted prior to thorough industry review. Such a review might be initiated by a Commission request to the Joint Technical Committee that this proposal be studied in all the Technical Advisory Groups. In the interim period, the Commission might authorize Omnipoint to utilize this signal format on a waiver basis, upon submission of evidence that it has obtained the prior written consent of all potentially affected parties (those operating, or requesting authorization to operate, in adjacent frequency bands).

MCI supports PCIA's request that all parties involved in the deployment of PCS in the 2 GHz band be required to participate in reasonable arrangements for sharing the cost of relocation of incumbent microwave links, as generally described in PCIA's petition for partial reconsideration. MCI has been an active participant in PCIA's ongoing efforts to further define and develop a cost-sharing proposal. MCI supports the PCIA proposal, as described in PCIA's comments to be filed today.

Point Communications Company raises three issues on reconsideration. Point's request that the Commission equalize PCS service areas based on Commerce Department BEA Economic Areas in lieu of MTAs and BTAs would inevitably delay commencement of auctions. The BEA approach was, as noted by Point, advocated by NTIA (alone) in an earlier phase of this proceeding; the Commission weighed and rejected it then, in favor of MTAs and BTAs. That decision should be reaffirmed. Point's second issue, framed as a request for a

requirement that open network architecture be deployed, is in reality a plea for the Commission to assert jurisdiction, whether directly or indirectly, over the manufacturers of PCS network equipment. The Commission has properly refrained from prescribing PCS technology standards; if PCS operators are concerned that the choice of a particular vendor may tie them to a proprietary design and increase their network equipment costs, they can make their views on open architecture known to vendors, either individually or through participation in the industry standards process. Point's third issue is a request that the identification of entrepreneur's blocks be varied from market to market. Assuming, for the sake of argument, that the presence of big brothers on their frequency blocks in other markets would create a net gain for small businesses, the implementation of such an approach would require a fundamental retooling of the broadband auction process. The Commission should not further delay commencement of auctions in a quest for the perfect plan.

MCI recommends that the Commission, while maintaining the overall base station power limit of 1640 watts (e.i.r.p.) give careful consideration to the proposed alternative method of defining power limits described in the petition of Spatial Communications, Inc. and ArrayComm, Inc. (ArrayComm). The Commission may wish to authorize the use of the ArrayComm formulation as an alternative method, at the carrier's option. As noted in the ArrayComm petition, the use of sophisticated technology can result in lower average isotropic radiated power levels, a desirable goal.

WHEREFORE, MCI respectfully requests that the Commission give thoughtful consideration to the views expressed herein in its deliberations on further reconsideration in this proceeding.

Respectfully submitted,
MCI TELECOMMUNICATIONS CORPORATION

By: Larry A Blosser

Larry A. Blosser
Donald J. Elardo
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 887-2727

Its Attorneys

Dated: August 30, 1994

CERTIFICATE OF SERVICE

I, Karen Dove, hereby certify that on this 30th day of August, 1994, copies of the foregoing "MCI Comments" in GN Docket No. 90-314 were served by first-class mail, postage prepaid upon the parties on the list below, except as otherwise indicated.

William J. Franklin
1919 Pennsylvania Ave., N.W.
Suite 300
Washington, D.C. 20006-3404
Attorney for the Association of Independent Designated Entities

Victor J. Toth
2719 Soapstone Drive
Reston, VA 22091
Attorney for CELSAT, Inc.

Michael F. Altschul
Cellular Telecommunications Industry Association
1250 Connecticut Ave., N.W.
Suite 200
Washington, D.C. 20036

Philip L. Verveer
Laurence D. Atlas
Jennifer A. Donaldson
Willkie, Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Suite 600
Washington, D.C. 20036-3384

Leonard J. Kennedy
Richard S. Denning
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Washington, D.C. 20037
Attorneys for COMCAST CORPORATION

Julian L. Shepard
Victor Tawil
Association for Maximum Service Television, Inc.
1776 Massachusetts Ave., N.W.
Washington, D.C. 20036

Mark W. Johnson
CBS, Inc.
1634 I Street, N.W.
Washington, D.C. 20006

Sam Antar
Capital Cities/ABC, Inc.
77 West 66th Street
16th Floor
New York, NY 10023

Molly Pauker
Fox, Inc. & Fox Television Stations, Inc.
5151 Wisconsin Ave., N.W.
Washington, D.C. 20016

John K. Hane, III
National Broadcasting Company, Inc.
1229 Pennsylvania Ave., N.W.
11th Floor
Washington, D.C. 20004

Charles W. Kelly, Jr.
Society of Broadcast Engineers
8445 Keystone Crossing
Suite 140
Indianapolis, IN 46240

Henry L. Baumann
Barry D. Umansky
Kelly T. Williams
NAB Science and Technology
1771 N Street, N.W.
Washington, D.C. 20036

J. Laurent Scharff
Reed, Smith, Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036
Attorneys for Radio-Television News Directors Association

Howard N. Miller
Public Broadcasting Service
1320 Braddock Place
Alexandria, VA 22314

Mark J. Tauber
Mark J. O'Connor
Piper & Mabury
1200 19th Street, N.W.
Seventh Floor
Washington, D.C. 20036
Attorneys for
Omnipoint Corporation

Mark Golden
The Personal Communications
Industry Association
1019 19th Street, N.W.
Suite 1100
Washington, D.C. 20036

John Hearne
Point Communications Company
100 Wilshire Boulevard
Suite 1000
Santa Monica, CA 90401

Joe D. Edge
Sue W. Bladek
Mark F. Dever
Drinker, Biddle & Reath
901 Fifteenth Street, N.W.
Suite 900
Washington, D.C. 20005
Attorneys for
Puerto Rico Telephone
Company

Jill Abeshouse Stern
Shaw, Pittman, Potts
& Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037
Attorneys for Spatial
Communications, Inc./
Arraycomm Inc.

Robert M. Pepper, Chief*
Office of Plans and Policy
Federal Communications
Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

Donald H. Gips, Deputy Chief*
Office of Plans and Policy
Federal Communications
Commission
1919 M Street, N.W., Room 822
Washington, D.C. 20554

Thomas P. Stanley*
Chief Engineer
Office of Engineering and
Technology
Federal Communications
Commission
2025 M Street, N.W., Room 7002
Washington, D.C. 20554

Ralph A. Haller, Chief*
Private Radio Bureau
Federal Communications
Commission
2025 M Street, N.W., Room 500
Washington, D.C. 20554

Karen Dove